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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,088	06/22/2006	Takashi Kawamura	2006_0930A	8905
52349 7590 03/08/2010 WENDEROTH, LIND & PONACK L.L.P. 1030 15th Street, N.W. Suite 400 East Washington, DC 20005-1503				
EXAMINER				
SELLERS, DANIEL R				
ART UNIT		PAPER NUMBER		
2614				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com
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Office Action Summary

Application No.

10/584,088

Applicant(s)

KAWAMURA ET AL.

Examiner

DANIEL R. SELLERS

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 22 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/22)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

Drawings

1. Figure 10 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Information Disclosure Statement

2. The information disclosure statement filed 6/22/06 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because no copy of the foreign data document was given (i.e. the document designated with reference letter AP). It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-4 and 6-10** are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Suito et al. (hereinafter Suito), US 2002/0054242 A1.

5. Regarding **claim 1**, Suito teaches a particular program detection device for detecting a particular program segment in a program signal including at least audio data of a program, the device (see figure 1 and figure 2, unit 3) comprising:

a noise level detecting section operable to detect a noise level of the audio data included in the program signal (see ¶ 0084);

a detection sensitivity determining section operable to determine a detection sensitivity which is used when a particular program is detected, based on the noise level detected by the noise level detecting section (see ¶ 0078-0084);

a silent portion detecting section operable to detect a silent portion of the audio data included in the program signal in accordance with the detection sensitivity determined by the detection sensitivity determining section (see ¶ 0088 and figure 8); and

a particular program determining section operable to determine a time interval between each silent portion detected by the silent portion detecting section to determine a particular program segment (see ¶ 0104 and figures 12A-12C).

6. Regarding **claim 2**, see the preceding rejection with respect to claim 1. Suito teaches the particular program detection device according to claim 1, further comprising:

a noise level learning section operable to learn association of the noise level detected by the noise level detecting section with a noise level which has been detected in the past (see ¶ 0089 and figure 8, step S23); and

a noise level storing section operable to store a noise level learnt by the noise level learning section, wherein the detection sensitivity determining section determines a detection sensitivity which is

used when a particular program is detected, based on the learnt noise level stored in the noise level storing section (see ¶ 0090-0091 and figure 8, step S24).

7. Regarding **claim 3**, see the preceding rejection with respect to claim 2. Suito teaches the particular program detection device according to claim 2,

further comprising a program information obtaining section operable to obtain program information from the program signal, wherein the noise level storing section stores the noise level learnt by the noise level learning section in association with the program information obtained by the program information obtaining section, and the detection sensitivity determining section obtains the learnt noise level associated with the program information from the noise level storing section in accordance with the program information obtained by the program information obtaining section, and determines the learnt noise level as a detection sensitivity which is used when a particular program is detected (see ¶ 0104 and figures 12A-12C).

8. Regarding **claim 4**, see the preceding rejection with respect to claim 1. Suito teaches the particular program detection device according to claim 1, further comprising a broadcast reception section operable to receive broadcast waves carried in the program signal (see ¶ 0064), and output the received program signal to the noise level detecting section and the silent portion detecting section (see ¶ 0064-0065, figure 1, units 2 and 3, and figure 2, unit 3).

9. Regarding **claim 6**, see the preceding rejection with respect to claim 1. Suito teaches the particular program detection device according to claim 1, wherein the silent portion detecting section subjects a minimum value of the audio data included in the program signal to a minimum hold process (see ¶ 0066 and figure 1, unit 4).

10. Regarding **claim 7**, see the preceding rejection with respect to claim 6. Suito teaches the particular program detection device according to claim 6, wherein, when a particular program is a CM (commercial), a time constant which causes a minimum hold value to increase is determined so that the minimum hold value is clipped to a

predetermined value in 15 seconds which is a minimum time which can be taken by a CM (see ¶ 0109).

11. Regarding **claim 8**, Suito teaches a particular program detection method which is executed by a device for detecting a particular program segment in a program signal including at least audio data of a program, the method comprising the steps of:

*detecting a noise level of the audio data included in the program signal (see ¶ 0084);
determining a detection sensitivity which is used when a particular program is detected, based on the detected noise level (see ¶ 0078-0084);
detecting a silent portion of the audio data included in the program signal in accordance with the determined detection sensitivity (see ¶ 0088 and figure 8); and
determining a time interval between each detected silent portion to determine a particular program segment (see ¶ 0104 and figures 12A-12C).*

12. Regarding **claim 9**, Suito teaches a computer recordable program which causes a particular program detection device to execute a method of detecting a particular program segment in a program signal including at least audio data of a program, the program causing the particular program detection device to execute the steps of:

*detecting a noise level of the audio data included in the program signal (see ¶ 0084);
determining a detection sensitivity which is used when a particular program is detected, based on the detected noise level (see ¶ 0078-0084);
detecting a silent portion of the audio data included in the program signal in accordance with the determined detection sensitivity (see ¶ 0088 and figure 8); and
determining a time interval between each detected silent portion to determine a particular program segment (see ¶ 0104 and figures 12A-12C).*

13. Regarding **claim 10**, Suito teaches an integrated circuit for use in a particular program detection device for detecting a particular program segment in a program signal including at least audio data of a program, wherein circuits functioning as the following sections are integrated:

a noise level detecting section operable to detect a noise level of the audio data included in the program signal (see ¶ 0084);

a detection sensitivity determining section operable to determine a detection sensitivity which is used when a particular program is detected, based on the noise level detected by the noise level detecting section (see ¶ 0078-0084);

a silent portion detecting section operable to detect a silent portion of the audio data included in the program signal in accordance with the detection sensitivity determined by the detection sensitivity determining section (see ¶ 0088 and figure 8); and

a particular program determining section operable to determine a time interval between each silent portion detected by the silent portion detecting section to determine a particular program segment (see ¶ 0104 and figures 12A-12C).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Suito as applied to claim 1 above.

16. Regarding **claim 5**, see the preceding rejection with respect to claim 1. Suito teaches the particular program detection device according to claim 1. Suito teaches a storage device in which the program signal is recorded (see figure 1, unit 8). However, Suito teaches the output of the storage device is coupled to a read-out circuit and a monitor for viewing (see ¶ 0066-0067) and does not explicitly teach the output is sent to the noise level detecting section and the silent portion detecting section. Suito teaches the output of the television tuner is sent to these detection sections (see ¶ 0064), but it would have been obvious at the time of the invention for one of ordinary skill at the time of the invention to have substituted the storage section with a television tuner. One of ordinary skill in the art at the time of the invention would expect a storage device with

data stored thereon pertaining to the same information that would have been received by the television tuner to behave in the same manner. It would have been obvious for one of ordinary skill in the art at the time of the invention to substitute the storage device with the television tuner for the purpose of detecting commercials in already recorded programs.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

18. Skinner, US 4,081,836 A, teaches a tuner with an AGC circuit, wherein the level output by the AGC is indicative of the signal-to-noise ratio (see column 6, lines 39-41).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL R. SELLERS whose telephone number is (571)272-7528. The examiner can normally be reached on Monday to Friday, 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian C. Chin can be reached on (571)272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel R. Sellers/
Examiner, Art Unit 2614

/Vivian Chin/
Supervisory Patent Examiner, Art Unit 2614